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10/645,274	08/21/2003	Pierre Michiels	84620-0019	7235
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LADAS & PARRY LLP 224 SOUTH MICHIGAN AVENUE SUITE 1600 CHICAGO, IL 60604				
			EXAMINER GRAYSAY, TAMARA L	
			ART UNIT 3636	PAPER NUMBER

DATE MAILED: 06/22/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/645,274

Applicant(s)

MICHELIS, PIERRE

Examiner

Tamara L. Graysay

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 14 October 2005 and 17 May 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-5,8 and 9 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-5,8 and 9 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 21 August 2003 and 11 February 2005 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)             | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                                    |

## DETAILED ACTION

### *Drawings*

1. The drawings were received on 11 February 2005. These drawings are objected to as noted below.
2. The drawings are objected to because of the following:
  - FIG. 3C: the lead line for reference character 8 is misdirected because it does not point to the raised part.
  - FIGS. 3A, 3B, 3C, 5A, 5B, 5C, 5D, 6A, 6B, 6C, 6D, 7A, 7B, 7C and 7D fail to comply with 37 CFR 1.84(u)(1) because the different views are not identified by the same number followed by a capital letter.
  - All of the figures fail to comply with 37 CFR 1.84(u)(2) because the view numbers are not larger than the numbers used for reference characters.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

*Specification*

3. The abstract of the disclosure is objected to because of the following:
- The abstract is not narrative form and limited to a single paragraph on a separate sheet within the range of 50 to 150 words.
  - The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided.
  - The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.
  - The abstract should avoid using phrases which can be implied, such as, "The present invention is related to."

Correction is required. See MPEP § 608.01(b).

4. Applicant is reminded of the proper content of an abstract of the disclosure.

A patent abstract is a concise statement of the technical disclosure of the patent and should include that which is new in the art to which the invention pertains. If the patent is of a basic nature, the entire technical disclosure may be new in the art, and the abstract should be directed to the entire disclosure. If the patent is in the nature of an improvement in an old apparatus, process, product, or composition, the abstract should include the technical disclosure of the improvement. In certain patents, particularly those for compounds and compositions, wherein the process for making and/or the use thereof are not obvious, the abstract should set forth a process for making and/or use thereof. If the new technical disclosure involves modifications or alternatives, the abstract should mention by way of example the preferred modification or alternative.

The abstract should not refer to purported merits or speculative applications of the invention and should not compare the invention with the prior art.

Where applicable, the abstract should include the following:

- (1) if a machine or apparatus, its organization and operation;
- (2) if an article, its method of making;
- (3) if a chemical compound, its identity and use;
- (4) if a mixture, its ingredients;
- (5) if a process, the steps.

Extensive mechanical and design details of apparatus should not be given.

***Claim Objections***

5. Claim 2 is objected to because of the following informalities:
- Claim 2, line 1-2: The limitation “flat elements” should be related to or distinguished from the first series of flat elements and/or the flat elements recited in claim 1 at lines 6 and 12, respectively. *The claims have been treated as a series of flat first elements at claim 1, line 12; a series of second elements at claim 1, line 7; flat third elements at claim 1, line 12; and flat fourth elements at claim 2, line 1.*
  - Claim 2: The limitation “said projections” is indefinite because claim 1 recites projections associated with both the first module and second module. Therefore, the claim is not clear as to which of the first and second module comprise the flat elements. *The claim has been treated as said projections of the first and second modules.*

Appropriate correction is required.

***Claim Rejections - 35 USC § 112, second paragraph***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

6. Claims 8 and 9 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 8 and 9 recite the limitation "said separation element" in line 1. There is insufficient antecedent basis for this limitation in the claim. *These claims have been treated as dependent upon claim 3, which provides antecedent basis for the limitation.*

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

7. Claims 1-5, 8 and 9 are rejected under 35 U.S.C. 102(b) as being anticipated by Robertson (US-2130859).

a. Claim 1: Robertson '859 depicts a device to connect two adjacent slabs, the device comprises:

- i. first and second modules  
e.g., FIG. 3 depicts a first module imbedded at the upper portion of slab 11 and a second module imbedded at the upper portion of slab 12
  - ii. a first series of flat elements, which form projections  
for example, looking at the second module at slab 12 depicted in FIG. 3: the top of narrow loop 6 is one projection and the bottom of narrow loop 6 is another projection
  - iii. a second series of elements in the form of a right angle  
looking again at the second module depicted in FIG. 3: the upper wide loop 5 is integral with the projections and in the same plane as the projections, i.e., the horizontal plane, and together with the lower wide loop 5 and the vertical downward portion form the right angle
- (1) the second series of elements comprise a first flat part  
a portion of the upper wide loop 5 is integral with the projection and in the same plane; in keeping with the applicant's breadth of the first flat part extending directly alongside the first series of flat elements / projection, the first flat part of Robertson extends in a similar fashion

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- (2) a raised second flat part that forms a right angle with the first part  
the vertical portion of the second module includes a raised portion between the wings 9 thereby connecting the and extending from the lower wide loop to the opening created by the wing

- iv. flat elements, which are in the same plane as the raised parts and which form connections in the form of first longitudinal members between the raised parts

the portion of the vertical member that extends longitudinally between the lower opening created by each wing 9 and the lower wide loop 5 of the flat element comprise the connections between the raised parts

- v. the first module disposed adjacent the second module with the raised parts facing each other along the center plane and the longitudinal members facing each other along the same center plane, and the projections extending on both sides of the center plane

the center plane is at the center of FIG. 3: the raised parts (vertical portion as described above) face each other, the longitudinal members (vertical portion between the lower wide loop and the opening created by the wing 9 as described above) face each other, and the projections (the top and bottom of the narrow loop 6) extend on both sides of the center plane

- b. Claim 2: Robertson '859 further comprises:

- i. flat elements in the same plane as the projections that form second longitudinal members

- (1) the end of the narrow loop forms the flat elements and are at least at the edge thereof in the same plane as the top narrow loop and bottom narrow loop projections; and as mentioned in section (iii)(1) above, the second longitudinal member is present between the end of the projection formed by the bottom narrow loop and the first flat parts that extends directly alongside the projection

- c. Claim 3: Robertson '859 further comprises a separation element between the first and second modules

elements 13-15 comprise a separation element

d. Claim 4: Robertson '859 further comprises a temporary fixing means

tie wires 4 are temporary fixing means

e. Claim 5: Robertson '859 further comprises anchoring elements

wings 9 are anchoring elements

f. Claim 8: Robertson '859 further comprises a separation element that is a "foil," as broadly recited, because the element 13-15 is a compressible filler board which provides a shield across the expansion joint to prevent water or foreign matter from entering the main portion of the joint (e.g., 2:35-41). The same purpose as applicant. The term foil has not been given any specificity in the disclosure that would define over the separation element of Robertson '859.

g. Claim 9: Robertson '859 further comprises a separation element that is a "sheet," as broadly recited, because the element 13-15 is a filler or core board and a board is a type of sheet. The term sheet has not been given any specificity in the disclosure that would define over the separation element of Robertson '859.

### ***Response to Arguments***

8. Applicant's arguments with respect to claims 1-5, 8 and 9 have been considered but are moot in view of the new ground(s) of rejection.



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***Conclusion***

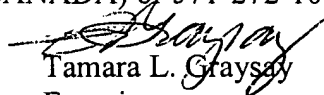
9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

- Jacobson (previously cited, US-2138817) teaches a road joint that includes the features of claim 1 including a first module and second module (FIGS. 3-4). Each module comprising projections (a portion of 13), first flat parts (a portion of 13), raised second flat parts at a right angle to the first flat parts (a portion of 10), flat elements (a portion of 10 extending between the projections 13). Jacobson includes a separation element (14; FIGS. 1-2) that is a foil or sheet as broadly recited in claims 3, 8 and 9. Jacobson includes a fixing means (21) as recited in claim 4. Jacobson includes an anchoring element (e.g., 22).
- Robertson (US-2144814) teaches a first and second module expansion joint derived from sheets and having projections, first flat parts, second raised parts, flat elements, etc. similar to applicant.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tamara L. Graysay whose telephone number is 571-272-6728. The examiner can normally be reached on Mon - Fri from 8:30am to 5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter M. Cuomo, can be reached on 571-272-6856. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Tamara L. Graysay  
Examiner  
Art Unit 3636

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